

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

UNITED STATES OF AMERICA)
)
vs.) Case No. 1:12-11
)
DAKOTA JAMES CALDERHEAD and)
KRISTIAN CHANCELOR MATHIS)

BEFORE THE HONORABLE TODD J. CAMPBELL, DISTRICT JUDGE

TRANSCRIPT

OF

PROCEEDINGS

May 14, 2013

Plea Hearing

Excerpt

APPEARANCES:

For the Government: Mr. Harold B. McDonough, Jr.
 Asst. U.S. Attorney
 110 Ninth Avenue S., Suite A961
 Nashville, TN 37203

 Mr. Ryan J. Murguia
 U.S. Dept. Of Justice
 Civil Rights Division
 950 Pennsylvania Avenue N.W.
 PHB - 5535
 Washington, DC 20530

PREPARED BY:

CATHY B. LEIGH, RDR, CRR
Official Court Reporter
801 Broadway, Room A839
Nashville, TN 37203
(615) 512-7544

1 APPEARANCES (Continued):

2 For Defendant
3 Calderhead:

Mr. James O. Martin, III
Attorney at Law
414 Union Street, Suite 904
Nashville, TN 37219

5 For Defendant Mathis:

Mr. David Baker
Asst. Federal Public Defender
810 Broadway, Suite 200
Nashville, TN 37203

8

9

I N D E X

10

Page

11

GOVERNMENT'S PROOF

12

BRIAN FAZENBAKER:

13

Direct Testimony

3

14

15

16

17

18

19

20

21

22

23

24

25

1 The above-styled cause came on to be heard on May
2 14, 2013, before the Honorable Todd J. Campbell, District
3 Judge. The proceedings continued, to-wit:

4 THE COURT: Mr. McDonough.

5 MR. McDONOUGH: Your Honor, Mr. Fazenbaker will
6 give the statement of facts.

7 THE COURT: Thank you, sir.

8 BRIAN FAZENBAKER
9 was called, and being first duly sworn, testified as follows:

10 DIRECT TESTIMONY

11 THE COURT: Mr. Fazenbaker, just for the
12 convenience of all concerned, is your statement substantially
13 similar to what is in the plea agreement?

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: So the lawyers will be able to follow
16 along with their copies.

17 THE WITNESS: On December 30th, 2011, Defendants
18 Kristian Chancellor Mathis and Dakota James Calderhead met at
19 Mathis' home in Spring Hill, Tennessee. As Mathis and
20 Calderhead walked back to Calderhead's home, the two
21 discussed vandalizing homes in the Spring Lake subdivision.
22 In furtherance of their plan to vandalize, Mathis and
23 Calderhead entered an open garage where they found and stole
24 a can of red spray paint. Calderhead proceeded to spray the
25 driveway of the residence from which the spray paint was

1 stolen. As Mathis and Calderhead continued walking,
2 Calderhead spotted a Cadillac and announced that
3 African-Americans must live at that residence because
4 African-Americans drive Cadillacs. Mathis proceeded to spray
5 paint the word *niggers* on the driveway. Mathis also drew a
6 swastika on the driveway. At the same residence, Calderhead
7 created a noose from loose rope and placed the noose on the
8 windshield of the Cadillac. Mathis suggested that the noose
9 belonged in the tree and proceeded to hang the noose from a
10 tree outside the residence.

11 Afterwards, Calderhead indicated that he knew of
12 another African-American woman who resided in the
13 subdivision, and both Mathis and Calderhead walked towards
14 her residence. On the way to the residence, Calderhead
15 created a second noose and decided to hang it from the
16 driver's side rear view mirror of the school bus located in
17 the front of the residence. Mathis assisted Calderhead in
18 lifting him to reach the mirror.

19 Defendants Mathis and Calderhead fully understand
20 the meaning of the word *nigger*, the swastika symbol, and the
21 noose. Defendants Mathis and Calderhead further admitted
22 that their acts of vandalism were intimidating and motivated,
23 in part, by the perceived race, color, or ethnicity of the
24 victim.

25 THE COURT: Mr. McDonough, any questions of the

1 witness?

2 MR. McDONOUGH: No, Your Honor.

3 THE COURT: Mr. Martin, any questions of the
4 witness?

5 MR. MARTIN: No, Your Honor.

6 THE COURT: Mr. Baker, any questions of the
7 witness?

8 MR. BAKER: I think I have a question.

9 THE COURT: Okay. Take your time.

10 CROSS-EXAMINATION.

11 BY MR. BAKER:

12 Q. Agent Fazenbaker, Mr. Calderhead and Mr. Mathis prior to
13 obtaining the spray paint broke some lights that were on the
14 driveways of some other houses; isn't that true?

15 A. Yes, sir.

16 Q. And these were houses that were not lived in by people
17 who are of any racial minority?

18 A. Not to my knowledge, correct.

19 Q. White people?

20 A. I believe so, yes, sir.

21 Q. And they went to the house where they took the spray
22 paint, they spray painted a smiley face and a swastika in
23 that driveway?

24 A. Yes, sir.

25 Q. And those people are not of a racial or religious

1 minority?

2 A. I believe they are white.

3 Q. And they are not Jewish either?

4 A. No, sir.

5 MR. BAKER: That's all the questions I have, Your
6 Honor.

7 THE COURT: Okay. Any other questions for Agent
8 Fazenbaker by anybody?

9 MR. McDONOUGH: No, Your Honor.

10 THE COURT: Okay, thank you, sir.

11 (Witness excused.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

REPORTER'S CERTIFICATE

I, Cathy B. Leigh, Official Court Reporter for the United States District Court for the Middle District of Tennessee, with offices at Nashville, do hereby certify:

That I reported on the Stenograph machine the proceedings held in open court on May 14, 2013, in the matter of UNITED STATES OF AMERICA vs. DAKOTA JAMES CALDERHEAD and KRISTIAN CHANCELOR MATHIS, Case No. 1:12-11; that an excerpt of said proceedings in connection with the hearing was reduced to typewritten form by me; and that the foregoing transcript (pages 1 through 6) is a true and accurate record of said portion of the proceedings.

This the 15th day of August, 2013.

/s/ Cathy B. Leigh
Cathy B. Leigh, RDR, CRR
Official Court Reporter